

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
MISSOULA DIVISION

UNITED STATES OF AMERICA,	)	CR 10-23-M-DWM
	)	
Plaintiff,	)	
	)	
vs.	)	ORDER
	)	
KIMBERLY JOE MCCRACKEN,	)	
	)	
Defendant.	)	
_____	)	

United States Magistrate Judge Jeremiah C. Lynch entered Findings and Recommendation in this matter on January 13, 2011. Neither party objected and therefore they are not entitled to de novo review of the record. 28 U.S.C. § 636(b)(1); United States v. Reyna-Tapia, 328 F.3d 1114, 1121 (9th Cir. 2003). This Court will review the Findings and Recommendation for clear error. McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc., 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a “definite and firm conviction that a mistake has been committed.” United States v. Syrax, 235 F.3d

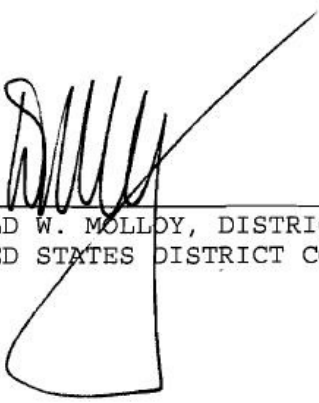
422, 427 (9th Cir. 2000).

Judge Lynch recommended this Court accept Kimberly Joe McCracken's guilty plea after McCracken appeared before him pursuant to Federal Rule of Criminal Procedure 11, and entered her plea of guilty to one count of conspiracy to distribute methamphetamine in violation of 21 U.S.C. § 846 as set forth in the Indictment.

I find no clear error in Judge Lynch's Findings and Recommendation (dkt # 40), and I adopt them in full, including the recommendation to defer acceptance of the Plea Agreement until sentencing when the Court will have reviewed the Plea Agreement and Presentence Investigation Report.

Accordingly, IT IS HEREBY ORDERED that Kimberly Joe McCracken's motion to change plea (dkt #33) is GRANTED.

DATED this 4<sup>th</sup> day of February, 2011.



DONALD W. MOLLOY, DISTRICT JUDGE  
UNITED STATES DISTRICT COURT